

Edward O.C. Ord, Esq. (SBN 52123)
Ord & Norman
233 Sansome Street, Suite 1111
San Francisco, CA 94104
Telephone: (415) 274-3800
Facsimile: (415) 274-3838

Attorney for Defendants
Charles Hsin and Optech Limited

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

v.

CHARLES CATHCART, SCOTT
CATHCART, YURIJ DEBEVC, a/k/a
YURI DEBEVC, ROBERT NAGY,
DERIVUM CAPITAL (USA), INC.,
VERIDIA SOLUTIONS, OPTECH
LIMITED, CHIHSIU HSIN, a/k/a
CHARLES HSIN, FRANKLIN
THOMASON

Defendants.

Civil No. 07-4762-PJH

**DEFENDANTS CHARLES
HSIN'S AND OPTECH
LIMITED'S REPLY TO UNITED
STATE'S REPOSE TO
DEFENDANTS'
ADMINISTRATIVE MOTION
PURSUANT TO LOCAL RULE 7-
11 FOR EXTENSION OF TIME
TO ANSWER PLAINTIFF'S
COMPLAINT**

We are gratified that the United States has agreed to allow the extension.

There are a couple of matters that require correction. First, there is a statement on page three of the United States' response to the motion for extension stating that we have made no offer to settle. We have repeatedly stated that until we obtain an ethics clearance, we are unable to make settlement offers. If ethics counsel approves our representation of defendants Hsin and Optech ("Defendants"), then the undersigned can explore settlement options. Until the

1 ethics counsel approves our representation of the defendants, our only option is to
2 seek an extension. We do not see why a proposed settlement offer should be
3 required as part of our reply.

4 Counsel suggests that the fact that the ethics counsel was on vacation
5 somehow would have precluded her from agreeing to the earlier extension. In
6 fact, the opposite should be true. If Counsel knew the ethics counsel was on
7 vacation, then she would have likely agreed to Defendant's original extension of
8 40 days. Defendants agreed to the June 30th extension in the hope that ethics
9 counsel could make a determination in time for a filing by June 30, and at that
10 time, Counsel indicated she would be open to a further extension if needed. *See*
11 Lin-Alva Declaration ¶ 8. Since ethics counsel was on vacation, an extension is
12 even more necessary.

13 Counsel fails to appreciate that ethics clearance takes time and careful
14 deliberation. Hastily made ethical decisions run the risk of future liability if a
15 conflict later arises.

16 The Fifth Circuit held in *Hetzel v. Bethlehem Steel Corp.*, 50 F.3d 360, 367
17 (5th Cir. 1995) that "the district court is granted broad discretion to expand filing
18 deadlines" when extensions are requested prior to the expiration of the time
19 period "for cause shown." The fact that Defendants have made a genuine good
20 faith attempt to ensure the ethics counsel has received all the information and
21 documentation to make a determination and is similarly forced to wait due to
22 uncontrollable circumstances surely falls within the Court's discretionary
23 authority. Consequently, the United States' suggestion that Defendants' stated
24 reasons do not justify extension, "*let alone permission* to seek additional
25 extensions," is unfounded. (emphasis added). Defendants are permitted to seek
26 and obtain an extension by the Federal Rules of Civil Procedure for good cause
27
28

1 shown. Defendants have demonstrated good cause. Therefore the court should
2 grant Defendants' motion.

3 Defendants further oppose the United States proposed order indicating that
4 no further extension may be brought or obtained. We ask that the Court not limit
5 all further requests, since it is possible that the current counsel might be
6 disqualified and it would be inequitable to bar defendant's future counsel from
7 their right to an extension.

8
9 Dated: June 27, 2008

10
11 Respectfully submitted,

12 ORD & NORMAN

13
14 By /s/ Edward O.C. Ord
15 Edward O.C. Ord, Esq.
16 Attorney for Defendants
Charles Hsin and Optech Limited

17 T:\Clients\7118\Admin motion time extension reply.doc
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that on June 27, 2008, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Joseph P. Russoniello
United States Attorney
Thomas Moore
Assistant United States Attorney
Chief, Tax Division
9th Floor Federal Building
450 Golden Gate Avenue, Box 36055
San Francisco, California 94102
Attorney for Plaintiff

Allyson B. Baker
Trial Attorney, Tax Division
U.S. Department of Justice
Post Office Box 7238
Ben Franklin Station
Washington, D.C. 20044
(allyson.b.baker@usdoj.gov)
Attorney for Plaintiff

HUONG T. BAILIE
Special Trial Attorney
160 Spear Street, 9th Floor
San Francisco, California 94105
Attorney for Plaintiff

ERIC L. WEBB
BARTSCH & WEBB
317 Rosecrans Avenue
Manhattan Beach, California 90069
(ewebb@elwlaw.com)
Attorney for Defendant Charles Cathcart

Farley J. Neuman (fneuman@jgn.com)
Tom Prountzos (tpountzos@jgn.com)
Jenkins Goodma Neuman & Hamilton LLP
417 Montgomery Street, 10th Floor
San Francisco, California 94104
Attorneys for Defendant, Robert Nagy

David Bujannoff Porter, Jr. (porter@woodporter.com)
Wood & Porter
333 Sacramento Street
San Francisco, California 94111
Attorney for Defendant Scott Cathcart

I further certify that on June 20, 2008, service of the foregoing was made upon the following by depositing a copy in the United States mail, postage prepaid:

Yuri Debevc (*pro se*)
1483 Burningtree Road
Charleston, SC 29412

/s/ Edward O.C. Ord
EDWARD O.C. ORD